

Service Date: December 20, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER OF the Application	)	UTILITY DIVISION
of NorthWestern Energy for Automatic	)	
Rate Adjustment and Tracking for Taxes	)	DOCKET NO. D2006.12.176
and Fees	)	ORDER NO. 6794

**INTERIM ORDER**

**Background**

1. On December 4, 2006, NorthWestern Energy (“NWE”) filed an Application for Interim and Final Rate Adjustment (“Application”) with the Montana Public Service Commission (“Commission”). NWE requested authority to increase certain rates and charges to recover estimated increased Montana state and local taxes and fees for 2007 and to recover asserted undercollection of taxes and fees for 2006. NWE represented that it needed to increase electric utility revenues by \$3,996,336 and natural gas utility revenues by \$4,504,550. NWE stated that § 69-3-308, MCA, permits “a public utility to file for automatic adjustment and tracking of Montana state and local taxes and fees paid by the utility.”

2. On December 13, 2006, the Commission issued a Notice of Application, Determination of Error, Intervention Deadline, Opportunity to Comment and to Request Hearing, and Provisional Notice of Public Hearing (“Notice”). In the Notice the Commission stated, “the PSC determines that the revised rate schedules are in error in that they do not properly include adjustments for the net change in federal and state

income tax liability caused by the deductibility of state and local taxes and fees, that the alleged undercollection of 2006 taxes is erroneous, and that the proposed allocation of taxes between Montana and FERC regulated services has not been approved by the PSC.”

### **Discussion and Findings**

3. Section 69-3-308(2)(a)(i), MCA, provides in pertinent part, “The commission shall allow a public utility to file rate schedules containing provisions for the automatic adjustment and tracking of Montana state and local taxes and fees, except state income tax, paid by the public utility. The resulting rate schedule changes must include: (A) adjustments for the net change in federal and state income tax liability caused by the deductibility of state and local taxes and fees . . . .”

4. The Commission has interpreted § 69-3-308(2)(a)(i)(A), MCA, to require a reduction in revenue requirement equal to the combined income tax rate multiplied by the change in state and local taxes and fees. NWE has challenged this interpretation and the matter is pending before the Montana District Court for Lewis and Clark County, Cause No. BDV 2006-35.

5. The Commission has consistently applied a marginal tax rate of 39.39% to reduce the revenue requirement for tax trackers. The adjusted increase in revenue requirement for the electric utility is \$1,772,211 and for the natural gas utility is \$2,213,707.

### **Conclusions of Law**

6. NWE provides electric and natural gas service within the State of Montana and as such is a “public utility” within the meaning of § 69-3-101, MCA.

7. The Commission properly exercises jurisdiction over NWE's Montana rates, service and operations pursuant to Title 69, Chapter 3, MCA.

8. The Commission is required by § 69-8-308, MCA, to allow a public utility to file rate schedules to recover increased Montana state and local taxes and fees.

9. Adjustments for increased Montana state and local taxes and fees must be reduced to account for the deductibility of state and local taxes and fees in calculating federal and state income tax liability.

### **Order**

1. NorthWestern Energy is authorized to increase rates and charges in the applicable electric tariffs by a uniform percentage to collect \$1,772,211 annually on an interim basis for service provided on or after January 1, 2007.

2. NorthWestern Energy is authorized to increase rates and charges in the applicable natural gas tariffs by a uniform percentage to collect \$2,213,707 annually on an interim basis for service provided on or after January 1, 2007.

3. NorthWestern Energy must file tariffs to implement the authority granted in this Order.

DONE IN OPEN SESSION at Helena, Montana on the 19<sup>th</sup> day of December, 2006 by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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GREG JERGESON, Chairman

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BRAD MOLNAR, Vice Chairman

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DOUG MOOD, Commissioner

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BOB RANEY, Commissioner

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THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.